

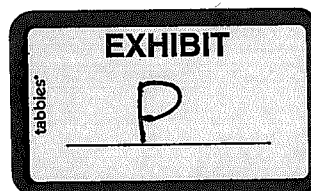
KRIGEL'S INC., -vs-

ARY JEWELERS, LLC

THOMAS F. MORGAN

MAY 21 & 22, 2001

JOHN M. BOWEN & ASSOCIATES - (816) 421-2876



Page 1

1 IN THE UNITED STATES BANKRUPTCY COURT
2 WESTERN DISTRICT OF MISSOURI,
3 WESTERN DIVISION.

4 In Re:)
5 KRIGEL'S, INC.,) No. 01-40276-11-JWV
6 Debtor.)

7 KRIGEL'S, INC.,)
8 Plaintiff,)
9 -vs-) Adv. Pro. No. 01-4089
10 ARY JEWELERS, LLC,)
11 Defendant.)

12 THE DEPOSITION OF THOMAS F. MORGAN,
13 produce, sworn, and examined on behalf of the
14 Defendant, pursuant to the following stipulation,
15 between the hours of eight o'clock in the forenoon
16 and six o'clock in the afternoon of Monday, May 21,
17 2001, at the law offices of Husch & Eppenberger, 1200
18 Main Street, Suite 1700, in the City of Kansas City,
19 in the County of Jackson, and State of Missouri,
20 before me,

21 LEA ANN MARTIN, C.S.R., R.P.R.,
22 of
23 JOHN M. BOWEN & ASSOCIATES
24 Shorthand Reporters

25 a Notary Public, in a certain cause now pending in
the United States Bankruptcy Court of Missouri,
Western Division, wherein Krigel's Inc., is the
Debtor, KRIGEL'S, INC. is the Plaintiff, and ARY
JEWELERS, LLC is the Defendant.

APPEARANCES:

For the Debtor Krigel & Krigel
and Plaintiff: 4550 Belleview
Kansas City, MO 64111
By: Mr. Sanford P. Krigel

Page 3

1 S T I P U L A T I O N

2 Before the taking of the within deposition,

3 the parties, by their counsel, stipulated that the

4 same may be taken at this time in shorthand and

5 thereafter typed, signed and regularly filed in the

6 case, with the same force and effect as if Notice had

7 been given, subject to objections as to competency,

8 relevancy and materiality.

9 It is further stipulated and agreed by and

10 between the parties hereto that presentment to the

11 attorneys of record of a copy of this deposition

12 shall be considered submission to the witness for his

13 signature within the meaning of the Missouri Rules of

14 Civil Procedure, to be signed by the witness before

15 or at the time of trial of this case. If not signed

16 before the time of trial, this deposition can be used

17 as though signed.

Page 2

1 APPEARANCES:

2 For the Defendant: Spencer, Fane, Britt &
3 Browne
4 1000 Walnut Street
5 Suite 1400
6 Kansas City, MO 64106-2140
7 By: Mr. Barry L. Pickens

8 Watt, Beckworth & Carrigan
9 1010 Lamar
10 Suite 1600
11 Houston, TX 77002
12 By: Mr. John B. Beckworth
13 and
14 Mr. Joseph Thompson, III

15 For Foothill Capital: Goldberg, Kohn, Bell, Black,
16 Rosenbloom & Moritz
17 55 E. Monroe Street
18 Suite 3700
19 Chicago, IL 60603-5802
20 By: Mr. William C. Meyers

21 For Abdul Razzak Walters, Bender, Strohbehn &
22 Yacoob: Vaughan
23 1100 Main Street, Suite 2500
24 Kansas City, MO 64105
25 By: Mr. Thomas V. Bender

Also present: Mr. Scott Krigel

Page 4

1 I N D E X

2 WITNESS: PAGE:

3 THOMAS F. MORGAN

4 Direct Examination by Mr. Pickens 7

5

6 EXHIBITS MARKED FOR IDENTIFICATION: PAGE:

7 Exhibit No. 1. 6
7/31/98 Loan and Security Agreement

8 Exhibit No. 2. 60
Amendment No. 1

9 Exhibit No. 3. 62
Amendment No. 2

10 Exhibit No. 4. 66
Amendment No. 3

11 Exhibit No. 5. 91
1/23/01 Loan and Security Agreement
with DIP

12 Exhibit No. 6. 116
12/15/00 emergence financing letter
to Gohar Husain

13 Exhibit No. 7. 133
1/18/01 letter to Thomas Morgan

14 Exhibit No. 8. 134
1/30/01 letter to Thomas Morgan

15 Exhibit No. 9. 135
1/31/01 emergence financing letter
to Gohar Husain

16 Exhibit No. 10. 139
2/1/01 e-mail from Scott Krigel

17 Exhibit No. 11. 165
3/20/01 emergence financing letter
to Gohar Husain

Page 141

1 Q. (By Mr. Pickens) Focusing on the terms in
2 Exhibit 9 and in relevant part Exhibit 6 with
3 the exception of paragraph 9, did Scott Krigel
4 ever complain to you about the million dollar
5 minimum availability requirement at all times?
6 A. No.
7 Q. Did he ever tell you that it was a bit
8 restrictive?
9 A. No.
10 Q. Did he ever make comments about these terms at
11 all to you?
12 A. Not that I can recall.
13 Q. Did he make comments to anyone else at Foothill
14 Capital that you're aware of regarding these
15 terms?
16 A. Not that I'm aware of, no.
17 Q. Did he ever tell you that the rate proposed in
18 paragraph 3 was well above market rate?
19 A. No.
20 Q. Did he ever tell that you the covenants in
21 paragraph 8 were too open-ended?
22 A. No.
23 Q. Actually, in paragraph 8 of this term sheet you
24 reserved the right to impose covenants in
25 addition to the two covenants that were imposed

Page 142

1 on Krigel's under the existing facility; isn't
2 that right?
3 A. That's correct.
4 Q. So that's another difference between the terms
5 set forth in Exhibits 6 and 9 from the original
6 facility with Krigel's, is it not?
7 A. Yes.
8 Q. Did he ever tell you that he thought that the
9 auditing fees were outrageously high --
10 A. No.
11 Q. -- at \$750 a day?
12 A. No.
13 Q. Did he ever tell you that he thought that they
14 should be capped under this term sheet the same
15 way they were under the existing credit
16 facility?
17 A. Not that I can recall.
18 Q. You don't remember any comments from Scott
19 Krigel about the terms in Exhibits 6 or 9 at
20 all?
21 A. No.
22 Do you remember anyone else making comments
23 about the terms of the term sheet in either
24 Exhibit 6 or Exhibit 9?
25 MR. MEYERS: Ever?

Page 143

1 Q. (By Mr. Pickens) Ever.
2 A. I can't state specifically. I'm sure that I had
3 conversations relative to various terms, but I
4 couldn't speculate as to what they were.
5 Q. What meetings do you remember having about
6 Exhibit 9? Let's start there.
7 A. Really nothing material. The deal was very
8 similar to the existing deal albeit there were
9 some differences, but there was really nothing
10 that was materially different than the facility
11 that we had in place, so, I mean, it was a very
12 similar facility to the one that was in place
13 and there wasn't a heck of a lot of discussion,
14 to be honest with you.
15 Q. At some point in time ARY made it known to you
16 they wanted to change some of the terms in the
17 proposed term sheet; isn't that correct?
18 A. Which term sheet are you referring to?
19 Q. Either Exhibit 6 or Exhibit 9 which I think
20 you've told me are the same exhibit for
21 Exhibit 9.
22 A. Actually, no; they did not comment in either one
23 of these exhibits, 6 or 9, with regard to
24 changes.
25 Q. Well, at some point in time, and I believe it's

Page 144

1 March 20th, you can correct me if I'm wrong, you
2 issued a new term sheet; did you not?
3 A. Yes, I did.
4 Q. And presumably that was because someone made you
5 aware that ARY wasn't going to accept the terms
6 in the December 15th term sheet as extended in
7 Exhibit 9; isn't that correct?
8 A. No, it's not.
9 Q. What prompted you to issue a different term
10 sheet?
11 A. The reason we issued a different term sheet was
12 because we had come across some information from
13 a competitor of ours that was unfavorable and
14 painted a picture of some activities that ARY
15 may or may not have been involved in that made
16 us nervous. That's why we issued the new term
17 sheet.
18 Q. And you came across that information from a
19 competitor approximately February 28th of 2001;
20 isn't that correct?
21 A. That's correct.
22 Q. When were you first made aware that ARY was
23 talking to your competitors about the emergence
24 financing facility?
25 A. Same time.